

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE ALUMINUM WAREHOUSING  
ANTITRUST LITIGATION

13 MD 2481 (KBF)

This Document Relates To:

OBJECTION TO [PROPOSED]  
CASE MANAGEMENT ORDER  
NO. 2

ALL CASES

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MAY IT PLEASE THE COURT

The Becnel Law Firm objects to Proposed Case Management Order No. 2 filed by Peter A. Barile, III.

At the MDL hearing on December 5, 2013 in Las Vegas, Nevada, Daniel E. Becnel, Jr., on behalf of his firm and his client River Parish Contractors, Inc., argued for these matters to be consolidated in New Orleans, Louisiana based on the fact that one of the Goldman Sachs Group, Inc. whistleblowers met with the U.S. Attorney's Office making them aware of the conspiracy to "shuffle" aluminum to various warehouses throughout the Gulf South, and more particularly in New Orleans.

Prior to any information becoming public, Goldman Sachs Group, Inc. contracted with large warehouses and trucking firms in the Metropolitan New Orleans area on a monthly basis so as to transfer aluminum between various warehouses in order to drive up the price of aluminum and delay the use of aluminum for months after being ordered. There was no reason for this to occur and lawyers in Louisiana began following the trucks and thus ultimately became

aware of this conspiracy. A number of huge warehouses were leased from the New Orleans Port Authority in Louisiana as well as other locations along the Gulf of Mexico.

Because of this fact and because numerous MDL's have been litigated in New Orleans by Judges Vance, Fallon, Barbier and Engelhardt, to name a few, and further considering the vastness of the conspiracy involving the aluminum antitrust case, it was natural to recommend the Eastern District of Louisiana to handle this MDL. Almost all of the law firms who made arguments recommended Michigan, with the exception of two individuals who recommended New York. Considering the experience of the judges recommended, the Southern District of New York was selected as the venue, with the MDL being assigned to U.S. District Judge Katherine B. Forrest.

Once the parties were notified that the cases would be consolidated in New York, Peter A Barile, III sent out an email stating a meeting would be held in New York because most of the individuals who filed cases were from large firms in the Northeast, on December 17, 2013 and it was ultimately changed to December 18, 2013. Our office notified Mr. Barile that Mr. Becnel was unable to participate in the meeting because of a previously scheduled hearing related to representing New Orleans Saints quarterback Drew Brees before U. S. District Judge Ginger Berrigan. The litigation involved theft and conversion of tax credits purchased by Drew Brees and other NFL players and coaches from a securities firm in New York. The money was not placed in a trust account and was converted and spent by the promoter who is now in jail. Mr. Becnel previously represented Coach Sean Payton of the New

Orleans Saints and recovered his money and, therefore, Drew Brees and other players asked him to represent them.

Despite my request that the meeting be postponed as a result of the Christmas Holidays, making transportation from New Orleans to New York almost impossible, the meeting was conducted by Mr. Barile and his colleagues without any input from my firm (see my letter dated December 17, 2013).

In addition to the Brees hearing before Judge Berrigan, Daniel E. Becnel, Jr. also had an MRI scheduled for later that afternoon as a result of a shuttle bus accident that occurred on his way to Las Vegas from the New Orleans airport parking lot. Daniel E. Becnel, Jr. was on his way to argue the MDL motion which was scheduled at the U.S. District courthouse in Las Vegas. The injury occurred when luggage flew off of a storage rack and struck Daniel E. Becnel, Jr. in the right shoulder and right knee causing a severe injury to the shoulder, including a partial tear to the right rotator cuff and tendon and a presumed tear within the inferior labrum (see attached MRI).

Because this meeting took place in New York on December 18, 2013, a proposed Committee was formed even though the Court had not yet given the attorneys any instructions or Case Management Orders. Mr. Barile basically confirmed the appointment of all of the people selected in this hastily called meeting. No other meetings have been held.

While I have no objection to the people appointed, I object to my law firm being excluded. I therefore request that this Honorable Court appoint me and my

firm to the Plaintiffs' Steering Committee based upon the Curriculum Vitae that was submitted to the Court.

Respectfully submitted,

s/Daniel E. Becnel, Jr.

DANIEL E. BECNEL, JR. (La. 2926)

BECNEL LAW FIRM, L.L.C.

P. O. Drawer H

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**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 18<sup>th</sup> day of February, 2014, served a copy of the foregoing pleading on all counsel by email transmission.

s/Daniel E. Becnel, Jr.

"Daniel E. Becnel, Jr." <dbecnel@becnellsaw.com>

December 17, 2013 8:30 AM

To: Peter Barile <pbbarile@gelaw.com>

Cc: "Eugene A. Spector" <ESpector@srkw-law.com>, 'Dianne Nast' <DNast@NastLaw.com>, 'Kenneth Wexler' <KAW@wexlerwallace.com>, "Vanek, Joseph M." <jvanek@vaneklaw.com>, 'Brian Strange' <Lacounsel@earthlink.net>, "'bfrey@manteselaw.com'" <bfrey@manteselaw.com>, 'Daniel Girard' <DCG@girardgibbs.com>, 'Robert Bonsignore' <rbonsignore@class-actions.us>, 'Christopher Lovell' <clovell@lshllp.com>, "'higurewitz@grplc.com'" <higurewitz@grplc.com>, "'bjaccarino@lshllp.com'" <bjaccarino@lshllp.com>, "'scera@gbcslaw.com'" <scera@gbcslaw.com>, "'kpierson@cohenmilstein.com'" <kpierson@cohenmilstein.com>, "'jsaveri@saverilawfirm.com'" <jsaveri@saverilawfirm.com>, 'Vince Esades' <vesades@heinsmills.com>, "'pccafferty@caffertyclobes.com'" <pccafferty@caffertyclobes.com>, "'jemerson@emersonpoynter.com'" <jemerson@emersonpoynter.com>, "'wcrowder@emersonpoynter.com'" <wcrowder@emersonpoynter.com>, "'jwhatley@whatleykallas.com'" <jwhatley@whatleykallas.com>, "'dfink@finkandassociates.com'" <dfink@finkandassociates.com>, "'Steven A. Kanner'" <skanner@fkmlaw.com>, 'Doug Millen' <dmillen@fkmlaw.com>, "'guido@saveri.com'" <guido@saveri.com>, 'Saveri Rick Alexander' <rick@saveri.com>, "'davidg@gseattorneys.com'" <davidg@gseattorneys.com>, "'tstokes@gseattorneys.com'" <tstokes@gseattorneys.com>, "'efastiff@lchb.com'" <efastiff@lchb.com>, "'dharvey@lchb.com'" <dharvey@lchb.com>, "'abraham.singer@kitch.com'" <abraham.singer@kitch.com>, "'bill@doylelowther.com'" <bill@doylelowther.com>, "'bonnys@rgrdlaw.com'" <bonnys@rgrdlaw.com>, "'srudman@rgrdlaw.com'" <srudman@rgrdlaw.com>, "'ffox@kaplanfox.com'" <ffox@kaplanfox.com>, "'aoiver@oliverlg.com'" <aoiver@oliverlg.com>, "'dgustafson@gustafsongluek.com'" <dgustafson@gustafsongluek.com>, 'Joe Bruckner' <wjbruckner@locklaw.com>, "'gmantese@manteselaw.com'" <gmantese@manteselaw.com>, "'cburke@scott-scott.com'" <cburke@scott-scott.com>, "'drscott@scott-scott.com'" <drscott@scott-scott.com>, "'dmogin@moginlaw.com'" <dmogin@moginlaw.com>, "'jkohn@kohnswift.com'" (jkohn@kohnswift.com)" <jkohn@kohnswift.com>, "Germaine, David P." <DGermaine@vaneklaw.com>, "'psafirstein@forthepeople.com'" <psafirstein@forthepeople.com>, "'jmeltzer@ktmc.com'" <jmeltzer@ktmc.com>, "'epm@millerlawpc.com'" <epm@millerlawpc.com>, "'ptim@aol.com'" <ptim@aol.com>, "'dbarrett@barrettlawgroup.com'" <dbarrett@barrettlawgroup.com>, "'dfink@finkandassociateslaw.com'" <dfink@finkandassociateslaw.com>, "'dhonigman@manteselaw.com'" <dhonigman@manteselaw.com>, "'JonC@cuneolaw.com'" <JonC@cuneolaw.com>, 'Vincent Briganti' <VBriganti@lowey.com>, "Linda P. Nussbaum" <lnussbaum@gelaw.com>

Re: Aluminum

3 Attachments, 585 KB

Dear Colleagues:

I have requested on numerous occasions that we wait until an order is issued by the MDL Court assigning an MDL Judge who will issue an Order similar to the ones I have sent in all of the latest MDL's. The Orders I previously sent are identical in not only antitrust cases, but in other mass tort cases. I sent the Orders in MDL No. 2311, *In Re Automotive Wire Harness Systems Antitrust Litigation*; MDL No. 2328, *In Re Pool Products Distribution Market Antitrust Litigation* and MDL No. 2047, *In Re Chinese-Manufactured Drywall Products Liability Litigation*. Attached hereto please find the Order Setting Initial Conference in MDL No. 2420, *In re Lithium Ion Batteries Antitrust Litigation*.

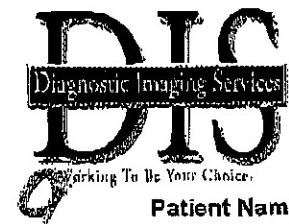
The reason I suggested a later date was because we have not received instructions from the Court and we have not received instructions from Judge Forrest. The reason for my inability to attend the meeting either in person or by phone is due to the fact that I have a Motion for Summary Judgment pending before U.S. District Judge Ginger Berrigan in the Eastern District of Louisiana for Saints quarterback, Drew Brees. I attach hereto my reply to this Motion for Summary Judgment. Both Drew and I will be attending this hearing.

It is important that all parties wishing to participate in this MDL be able to submit an application to the Court. As I argued at the MDL hearing on December 5, 2013, I advised the Court that New Orleans is one of the centers where much of the "aluminum shuffle" takes place. See attached article from City Business this past week.

The people with inside information are speaking with various U.S. Attorneys at this time and, therefore, we need to get this information before we can proceed. I, therefore, join with others asking that this matter be postponed until the Judge issues the appropriate Order.

Very cordially yours,

Daniel E. Becnel, Jr.  
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## D.I.S. Women and Advanced Imaging

Patient Name: DANIEL BECNEL  
Referring Physician: Arcuri Dominic  
Account #: 1094776  
Date of Birth: 6/14/1944  
Date of Service: 12/18/2013

Patient ID: 624952  
Phone: (504) 400-6501  
Page: 1 of 2

### MRI RIGHT SHOULDER without contrast

Comparison: None available.

Clinical History: Right shoulder pain; decreased range of motion; painful to raise right upper extremity; unspecified injury December 4, 2013 resulting in symptoms.

Technique: Multiplanar, multisequence, MRI of the right shoulder was performed with image acquisition without intravenous or intra-articular contrast infusion on a 1.2 Tesla high field strength open Hitachi Oasis magnet.

### FINDINGS:

**ACROMIOCLAVICULAR JOINT:** Moderate osteoarthritis is evident. No fracture, dislocation or evidence of acute injury.

**ROTATOR CUFF:** Partial thickness, articular surface, distal, anterior, insertional tear of the supraspinatus is noted to measure 5 x 5 mm and involves 33 percent thickness of the tendon. The supraspinatus is otherwise robust and unremarkable. Minor bursal surface fraying of the anterior aspect of the musculotendinous junction of the infraspinatus is noted along with minor tendinopathy and minor grade 1 strain of the infraspinatus musculature. Teres minor is intact and unremarkable. Subscapularis is intact and unremarkable.

**JOINT EFFUSION; BURSITIS:** No subacromial/subdeltoid or subcoracoid bursitis is evident. No significant glenohumeral joint effusion is noted.

**BICEPS TENDON:** The intraarticular and extraarticular segments of the long head of biceps tendon are intact, have normal intrinsic signal and are in normal position.

**GLENOID LABRUM:** A 7 mm diameter paralabral cyst is noted within the axillary recess abutting the anterior inferior labrum at approximately 5:30. The intermediate heterogeneous signal within the anterior inferior labrum is more suggestive of chronic tear and fraying, but there is a presumed tear within the anterior inferior labrum considering this cyst. There is a sub-labral developmental cleft within the anterior superior labrum. The remainder of the labrum is intact and unremarkable.

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BONE DENSITY (DEXA) • CT • DIGITAL MAMMOGRAPHY • DIGITAL X-RAY/FLUOROSCOPY • MRI & OPEN MRI • NUCLEAR MEDICINE • PET/CT • ULTRASOUND  
BREAST MRI • CYST ASPIRATION • DUCTOGRAPHY • HYSEROSALPINGOGRAM • MASSAGE THERAPY • ULTRASOUND GUIDED BREAST BIOPSY



## D.I.S. Women and Advanced Imaging

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**OSSEOUS STRUCTURES:** Minor subchondral reactive cystic changes noted within the greater tuberosity of the humerus posteriorly. No fracture or dislocation is noted. No marrow edema of bone contusion or other definite acute process is noted.

**OTHER:** The surrounding muscles are symmetric, normally developed, and are without generalized or focal asymmetric edema or atrophy. No soft tissue mass is evident. No other definite acute process is noted.

### IMPRESSION:

1. Partial thickness, articular surface, anterior, insertional tear supraspinatus involving approximately 33 percent thickness of the tendon.
2. Presumed tear within the inferior labrum anteriorly considering paralabral cyst at approximately 5:30.
3. Minor tendinopathy, bursal surface fraying infraspinatus at the musculotendinous junction/acromion and minor grade 1 strain infraspinatus muscle.
4. Moderate osteoarthritis acromioclavicular joint.

Louis M. Schruff, M.D.  
Job #: v2d\_2550\_1347121913072804  
Transcription Date: 12/19/2013  
Dictation Date: 12/19/2013

This document has been electronically signed by Louis M. Schruff, M.D. 12/19/2013 at 7:37 AM (CST)

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